

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

CONSOLIDATED INDUSTRIES, LLC
d/b/a WEATHER KING PORTABLE
BUILDINGS,

Plaintiff,

v.

JESSE A. MAUPIN, BARRY D. HAR-
RELL, ADRIAN S. HARROD, LOGAN
C. FEAGIN, STEPHANIE L. GILLES-
PIE, RYAN E. BROWN, DANIEL J.
HERSHBERGER, BRIAN L. LASSEN,
ALEYNA LASSEN, and AMERICAN
BARN CO., LLC,

Defendants.

Civil Action No. 1:22-cv-01230-STA-jay

District Judge Anderson

Magistrate Judge York

**RESPONSE IN OPPOSITION TO PLAINTIFF’S MOTION TO SET
ASIDE OR AMEND COURT’S APRIL 28, 2025 ORDER**

Plaintiff Weather King previously agreed to the ABCO Defendants’ recent motion to extend the deadline for them to make their expert disclosures. (*See* D.E. 207 at 3.) As Weather King admits in its motion to set aside the Court’s recent order granting that motion, several depositions were scheduled during the two days prior to that original deadline. (D.E. 209 at 1.) These depositions—of Scott Berryman and Weather King pursuant to Fed. R. Civ. P. 30(b)(6)—needed to occur before the ABCO Defendants could finalize and serve their expert disclosures. The parties agreed to postpone these depositions while they were engaged in settlement negotiations. This necessitated moving back the ABCO Defendants’ expert disclosure deadline as well. Weather King agreed to all of this. (*Id.* at 2 & n.2.)

Now, Weather King seeks to undo the Court’s order granting the ABCO Defendants’

unopposed extension motion. This is after the ABCO Defendants recently agreed to Weather King's recent motion to extend the discovery deadline. (*See* D.E. 203.) The Court should deny Weather King's motion because it previously agreed to this unextraordinary relief, and because it will not be prejudiced.

Weather King now claims that the extension it previously agreed to "will hinder the parties' ability to focus on preparation for trial." (D.E. 209 at 2.) But it makes no attempt to explain how. The fact discovery deadline and the deadline to take fact witness depositions have been extended to June 2, 2025. (D.E. 204.) Indeed, the parties have frequently agreed to extensions of various deadlines in this case, and trial is several months away, in October.

Weather King's exhibit to its motion paints an incomplete picture of the parties' recent settlement negotiations. Due to a mistake of fact, defense counsel believed a material term of Weather King's counterproposal during settlement negotiations was different from the actual offer. This led to the ABCO Defendants believing that the parties were closer than they actually are. However, this occurred after the depositions scheduled for April 28 and 29 had been postponed. After defense counsel had a chance to confer with their clients, the ABCO Defendants communicated to Weather King that they have decided not to settle at this time.

The ABCO Defendants could submit their expert disclosures sooner and then supplement those disclosures after the depositions of Weather King and Scott Berryman have occurred. But that would be inefficient and unnecessary. The course that is more efficient and makes more sense is for the case schedule to continue as currently set forth, or to make the expert disclosures due sometime after the depositions noted above have been completed.

For the reasons discussed above, the Court should deny Weather King's motion to set

aside the Court's order granting the ABCO Defendants' unopposed motion for an extension of time to make their expert disclosures. At the very least, the expert disclosures should be due after the depositions noted above are complete and the ABCO Defendants' expert has been able to review and digest the transcripts.

Date: April 30, 2025

Respectfully submitted,

/s/ Benjamin S. Morrell

Thomas G. Pasternak (admitted pro hac vice)

Benjamin S. Morrell (TBPR No. 35480)

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Feagin, Gillespie, Brown, Hershberger, and American
Barn Co., LLC*

CERTIFICATE OF SERVICE

I hereby certify that on the date listed below, I filed the foregoing document with the Clerk of the Court using the Court's CM/ECF filing system, which will send notice of such filing to all counsel of record. I further certify that on the date listed below, I sent the foregoing document to the following individuals at the address listed below via U.S. Mail first-class, postage prepaid, and via email at the email address listed below:

Aleyna Lassen
Brian L. Lassen
1405 N. Fort Grant Road
Willcox, AZ 85643
willcoxbuildings@pm.me

Date: April 30, 2025

/s/ Benjamin S. Morrell